

Senate File 2193

PAG LIN

SENATE FILE 2193

AN ACT

RELATING TO THE CIVIL COMMITMENT OF SEXUALLY VIOLENT
PREDATORS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 229A.7, subsection 1, Code 2003, is
amended to read as follows:

1. If the person charged with a sexually violent offense
has been found incompetent to stand trial and the person is
about to be released pursuant to section 812.5, or ~~the person~~
~~has been found not guilty of a sexually violent offense by~~
~~reason of insanity~~, if a petition has been filed seeking the
person's commitment under this chapter, the court shall first
hear evidence and determine whether the person did commit the
act or acts charged. At the hearing on this issue, the rules
of evidence applicable in criminal cases shall apply, and all
constitutional rights available to defendants at criminal
trials, other than the right not to be tried while
incompetent, shall apply. After hearing evidence on this
issue, the court shall make specific findings on whether the
person did commit the act or acts charged, the extent to which
the person's incompetence ~~or insanity~~ affected the outcome of
the hearing, including its effect on the person's ability to
consult with and assist counsel and to testify on the person's
own behalf, the extent to which the evidence could be
reconstructed without the assistance of the person, and the
strength of the prosecution's case. If after the conclusion
of the hearing on this issue, the court finds, beyond a
reasonable doubt, that the person did commit the act or acts
charged, the court shall enter a final order, appealable by
the person, on that issue, and may proceed to consider whether
the person should be committed pursuant to this chapter.

Sec. 2. Section 229A.7, Code 2003, is amended by adding
the following new subsection:

NEW SUBSECTION. 1A. If a person has been found not guilty
by reason of insanity, the court shall determine whether the
acts charged were proven as a matter of law. If as a matter
of law, the finding of not guilty by reason of insanity
requires a finding that the underlying elements of the charged
offense were proven, then no further fact-finding is required.
If as a matter of law, the finding of not guilty by reason of
insanity does not require a finding that the underlying
elements of the charged offense be proven, the case shall
proceed in the same manner as if the person were found to be
incompetent to stand trial as provided in subsection 1.

JEFFREY M. LAMBERTI
President of the Senate

CHRISTOPHER C. RANTS
Speaker of the House

I hereby certify that this bill originated in the Senate and
is known as Senate File 2193, Eightieth General Assembly.

MICHAEL E. MARSHALL
Secretary of the Senate

Approved _____, 2004

THOMAS J. VILSACK
Governor